

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE FACEBOOK, INC., IPO SECURITIES : MDL NO. 12-2389  
AND DERIVATIVE LITIGATION :**

**This document relates to the  
Consolidated NASDAQ Actions:**

<b>No. 12-cv-4054</b>	<b>No. 12-cv-4600</b>
<b>No. 12-cv-4200</b>	<b>No. 12-cv-4716</b>
<b>No. 12-cv-4201</b>	<b>No. 12-cv-5549</b>
<b>No. 12-cv-4315</b>	<b>No. 12-cv-5630</b>
<b>No. 12-cv-4403</b>	<b>No. 12-cv-6882</b>

**DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO EXTEND  
TIME TO APPEAL PURSUANT TO FED. R.A.P. 4(a)(5)**

Pursuant to Federal Rule of Appellate Procedure 4(a)(5), Defendants, The NASDAQ OMX Group, Inc., The NASDAQ Stock Market LLC, Robert Greifeld, and Anna M. Ewing, respectfully move the Court for an extension of time for the filing of a notice of appeal from the Court's Opinion and Order of December 16, 2013. The notice of appeal is currently due on January 15, 2014; the NASDAQ Defendants request a 30-day extension of time to February 14, 2014.

Good cause for an extension exists. Defendants are entitled to appeal as of right based on the Court's partial denial of their defense of SRO immunity. *See Mitchell v. Forsyth*, 472 U.S. 511 (1985). Defendants believe that the court of appeals also will have pendent appellate jurisdiction over other issues raised by their motion to dismiss. To avoid any jurisdictional complications, however, Defendants are moving (simultaneously with this motion) to alter or amend the Court's Opinion & Order to include a certification for interlocutory appeal of other issues under 28 U.S.C. § 1292(b). Because there may be some uncertainty whether the

filing of a notice of appeal would divest this Court of jurisdiction to rule on Defendants' motion under Section 1292(b), Defendants file this motion out of an abundance of caution, in order to ensure that the Court has additional time to consider and rule upon the Section 1292(b) motion before the time for filing the notice of appeal runs.

Because these circumstances constitute good cause, the motion for an extension of time should be granted.

Respectfully submitted,

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